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C O N F I D E N T I A L SECTION 01 OF 03 GUATEMALA 003071

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SUBJECT: LETTER FROM GUATEMALA

Classified By: Ambassador John Hamilton for reasons 1.4 (b) & (d).

¶11. (U) This is the first of a series of biweekly cables with which, in a more discursive style than the standard telegram, the Embassy intends to report on newsworthy political and economic developments and provide some context to Guatemalan policy-making.

Cabinet Changes Coming

¶12. (SBU) There is much speculation that President Berger, nearing completion of his first year in office, is considering changes in his cabinet. It is already public that his young, dynamic Minister of Energy and Mines, Roberto Gonzalez, will move over to the presidential palace in January to become chief of staff. At lunch with the Ambassador, Gonzalez displayed a detailed knowledge of the mining and energy issues he had been working as Minister and a lively curiosity about new issues outside his current portfolio. He said that in his new position he hoped to work closely with the Embassy and intended to pay special attention to the bilateral agenda.

¶13. (SBU) At the Ministry of Energy and Mines, Gonzalez is to be replaced by his competent, respected and energetic Vice Minister, Carolina Roca. She will have her hands full over the coming weeks. Guatemala's Constitutional Court unexpectedly ruled against the regulatory authority for electricity (CNEE), ordering reversal of the CNEE's decision to limit subsidized electricity rates to those who consume less than 100 KWH per month. The Court also ordered reimbursement of all who were affected. The court was responding to a motion filed by the Human Rights Ombudsman, who is known to argue that inexpensive electricity is a basic human right. Guatemala's model legislation and regulatory structure were not affected, but the court-ordered firing of the CNEE's board sets a potentially damaging precedent of intrusion into the board's autonomy. This week, Roca has organized a major forum on mining in Guatemala that has become a magnet for anti-mining activists of all stripes. The Marriott decided late last week to cancel its offer to host the event when local groups (Madre Selva and Marielos Monzon) demanded equal time and space for an event they wished to organize. Consequently, the event was moved to a hotel away from the city center. Finally, Roca and the revenue collection service (SAT) are under pressure to do something about the mushrooming problem of gasoline and diesel contraband, which the major distributors claim is driving them out of business. We are working with Roca to try to get TDA assistance in establishing better controls.

¶14. (C) Berger, who is leaving this weekend for Miami to be one of the keynote speakers at the opening plenary dinner of the Miami Conference on the Caribbean Basin (CCAA), has been openly pressing for the well-respected Lizardo Sosa to quit his job at the Central Bank. Sosa's star lost some luster over his support for the Portillo Administration's Eurobond issuances. More recently, Sosa is rumored to have incurred the displeasure of exporters over monetary policy, particularly exchange rates. Berger reportedly wants to move Finance Minister Toni Bonilla to the Central Bank, inviting speculation about who will take over the Finance Ministry. Berger cannot legally force Sosa out of the Central Bank but with his public comments is clearly trying to make Sosa uncomfortable and leave. There is some criticism that Berger's campaign against Sosa is not only unseemly but encroaches on the Central Bank's autonomy. Likewise, having moved Willy Zapata from the SAT to the Superintendence of Banks, we hope he will find someone equally respected, and possibly more operational than the able but sometimes ethereal Zapata, for the SAT position.

¶15. (SBU) MinDef Mendez Pinelo is expected to move out in January because he is already past the military's mandatory retirement deadline. We have also heard that Health Minister Sosa, having dragged Berger into IPR grief by pushing new legislation on generic pharmaceutical drugs, may be moving on. Thanks to Sosa, intellectual property rights are consuming much of our time. Sosa took advantage of a lull to stampede a bill through the Congress on November 19 that eviscerates data protection for pharmaceuticals and agricultural chemicals. We and others had been assured that the bill was dormant. The bill is a case study in cynicism,

guaranteeing the rights of developers of new products in its operational language and then defining "new products" so as to ensure that none will ever exist. The Ambassador told Berger in the clearest terms that this was exactly the sort of issue that was getting the Dominican Republic kicked out of CAFTA. Berger has fifteen days to veto the bill once he receives it (he has not) and has thus ordered Sosa to launch a process to come up with something acceptable with which to replace it. Berger told the Ambassador December 1 that it would be too politically costly simply to veto the bill. Berger and Vice President Stein seem to recognize that Minister Sosa will not be helpful in producing a decent substitute and have now inserted presidential advisor and FTA advocate Mickey Fernandez into the process -- a good sign.

Congress Gets a D; Changes May Improve Grade

16. (C) The Congress went into recess November 25 and was pretty much panned by the critics, who noted that it was the least productive session in at least eight years. This is due in large measure to it being the most fractious congress in recent memory. In addition to its lack of legislative accomplishments, however, the Congress was buffeted by nagging scandals, ranging from revelations of exorbitant salaries paid to ghost advisors, questions about the procurement of a new telephone system and the contracting of a security firm, the end-use of vehicles donated by Taiwan and congressional junkets. The most egregious of the last appears to be an all-expenses paid trip for the departing president of congress, Rolando Morales, to Thailand and Indonesia in the company of a female "advisor" whose name does not show up anywhere in personnel files of the congress.

UNE leader Alvaro Colom told the Ambassador that Morales, who also belongs to UNE, did not have the managerial skills or experience to run Congress. It is widely believed, however, that Colom and Morales were treating each other as rivals within UNE. Colom told the Ambassador (and, the following day, announced to the press) that he was asking UNE's "Discipline Tribunal" to review allegations against Morales of corruption and mismanagement.

17. (SBU) In the last month, however, the Congress elected new leadership for 2005. It also approved some changes to its internal procedures that could help make it more productive next year. These include reducing to 25% the quorum necessary for committees to do their work, eliminating the requirement for multiple readings (literally) in plenary of the full text of all legislation and making the texts of all bills available electronically. With these new rules and the leadership of the new "junta directiva" headed by president Jorge Mendez Herbruger, who belongs to President Berger's coalition, there is reason to hope that next year the Congress might accomplish more.

18. (SBU) Mendez Herbruger told the Ambassador he was fully aware that the Congress had plummeted to an all-time low in public prestige. He said his task was to rescue the image of Congress by putting it to work. He noted that he and his junta directiva had been elected without an opposing slate, although UNE and PAN absented themselves from the vote. JMH claimed to enjoy direct access to President Berger and all the cabinet ministers but also expected to consult with key presidential adviser Eduardo "Guayo" Gonzalez on political issues.

19. (SBU) Until the Congress comes back into session January 14, it will be under the care of a five-member Permanent Committee that is to dispatch all urgent business requiring immediate attention. The press, however, is speculating that the Permanent Committee is conspiring to vote a pay raise for all 158 congressional deputies of an additional \$15,000 per year. Public opposition to the pay raise when it was first floated earlier this year was so intense that the congress quickly backed off. The press is convinced that the Permanent Committee members will somehow pull a fast one and push through a pay raise, thus absolving their congressional colleagues from responsibility.

Military Mystery: Whodunit and Who Is it?

10. (SBU) Meanwhile, some of the public's attention has focused on last week's "discovery" of the alleged burial site of Col. Raul Cerna. As finance chief of the now-dissolved EMP, Cerna was a key witness in efforts to track down the whereabouts of at least \$30 million of the \$115 million or more that went missing in military hands under the Portillo administration. Cerna dropped out of sight in April, but only now is it surfacing that he may have died at that time in a city hospital of poisoning. The hospital report concluded that he accidentally poisoned himself by drinking muriatic acid, a conclusion that is raising eyebrows. Although the dead hospital patient had identification

documents with Cerna's name and address, neither the hospital nor the morgue notified Cerna's family. For that matter, many Guatemalans are wondering why Cerna's family did not report him missing and therefore conclude that Cerna may be alive and hiding. An exhumation at Cerna's burial site has been ordered, and it is hoped (but not fully expected) that it will lead to a determination of whether the cadaver is indeed Cerna's. Even for a Guatemalan public long-inured to jaw-dropping displays of incompetence among police, prosecutors and courts, the handling of the Cerna case is disturbing. The Prosecutor's Office has announced an internal investigation into why its staff failed to pursue leads on Cerna's whereabouts.

Rios Sosa the 6th Beatle?

¶11. (SBU) Another episode of the military corruption soap opera starred the appearance in court of retired General Enrique Rios Sosa, the 56-year-old former Army Chief of Staff and Minister of Defense accused of diverting \$4 million from the coffers of the National Mortgage Fund (CHN). Rios Sosa is also the son of Efrain Rios Montt, the former president, who is accused by human rights activists of genocide against indigenous in the early 1980s. Prosecutors failed to get the judge who temporarily took over the Rios Sosa case to recuse herself, and through some questionable maneuvers she proceeded to let Rios Sosa free on a \$12,000 bail bond. Prosecutors allege she railroaded the hearing to preclude them from making their case. A self-satisfied Rios Sosa (whose grinning visage made all the front pages November 30) reportedly chanted "Peace and Love" in English to mystified journalists as he departed the courtroom.

Politics at the MFA?

¶12. (C) Without much notice or fanfare, Juan Jose Cabrera joined the MFA last week as a vice foreign minister. We were impressed by his hands-on responsiveness to us in getting our CNIES dip note turned around in time to meet our December 1 deadline -- in his first week in office. It is noteworthy that this very pleasant fellow, with no known prior diplomatic or international relations experience, moved to the MFA directly from Eduardo Gonzalez's office (Executive Secretary) in the Presidency. Earlier this year we had heard

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that Gonzalez was one of the people behind the sniping against and anonymous criticism of FM Briz, who is widely expected to be Gonzalez's rival in the 2007 elections. This makes us wonder whether Cabrera might be a "political commissar."

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